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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/667,995	09/22/2003	Joseph Birli	24063/04051	9320

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EXAMINER

DABNEY, PHYLES HA LARVINIA

ART UNIT	PAPER NUMBER
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2615

DATE MAILED: 09/06/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/667,995

Applicant(s)

BIRLI ET AL.

Examiner

Phylesha L. Dabney

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 September 2003.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 21 and 22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-20 is/are rejected.
- 7) ☒ Claim(s) 6 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

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DETAILED ACTION

This action is in response to the application filed on 22 September 2003 in which claims 1-22 are pending.

Election/Restrictions

Claims **21-22** are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 30/ May 2006.

Claim Objections

Claim **8** is objected to because of the following informalities: missing word "second". Appropriate correction is required.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims **4, 5, and 9-17** are rejected under 35 U.S.C. 112, first paragraph, as based on a disclosure which is not enabling. The "reasoning for supporting a second microphone on a first microphone" critical or essential to the practice of the invention, but not included in the claim(s) is not enabled by the disclosure. See *In re Mayhew*, 527 F.2d 1229, 188 USPQ 356 (CCPA 1976).

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The specification fails to teach "why" a second microphone is needed/being used in the Applicant's invention.

The specification fails to teach a benefit for why the second microphone is attached to the first microphone as opposed to some place else within the system. What critical feature(s) which has been verified by scientific/technical reasoning is the Applicant attempting to improve by constructing the system as such.

The specification fails to teach scientific/technical reasoning for why the first and second microphones has to be two different types of microphones, i.e. electret/dynamic.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims **1-2, and 18-19** are rejected under 35 U.S.C. 102(b) as being anticipated by Reed (U.S. Patent No. 5,142,700).

Regarding claim 1, as shown in figs. 1-4, Reed teaches a microphone assembly for a face mask (10) having a pass-through, comprising: a first microphone (58) electrically connected with said pass-through (44, transceiver); and a second microphone (58) electrically connected with said pass-through.

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Regarding claim 2, Reed teaches a microphone assembly as set forth in claim 1 wherein said pass-through is a multi-conductor pass-through which is implied by the pass-through having a conductive path for the antenna, microphones and speaker connections.

Regarding claim 18, Reed teaches a mask (10) comprising: a pass-through (44) for passing at least one microphone signal to the outside of said mask, a first microphone (58) supported on said mask and having a first output signal; a second microphone (58) on said mask and having a second output signal; and at least one electrical conductor (fig. 3) for directing the first output signal and the second output signal to said pass-through.

Regarding claim 19, Reed teaches a mask as set forth in claim 18 wherein at least one of said first and second microphones (58) includes a first electrical connector for engagement with said pass-through (44) thereby to connect said first and second microphones electrically with said mask.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 3-4, 7, and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed.

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Regarding claim 9, it is implied by the reference that the microphones have connectors for providing electrical connection. In addition, Reed teaches a wiring connector structure (col. 3 lines 40-46) for connecting components to the face mask, having a second component supported on a main (first) component (fig. 2, relative to an example speaker configuration).

Since Reed does not specifically teach or restrict any connecting structure for the microphone components, it would have been obvious to one of ordinary skill in the art at the time the invention was made that the example wiring connector structure (fig 2) disclosed by the reference for use by any other components could be used for attaching the microphone components in the invention of Reed as a means of providing electrical connection between components and the pass-through.

Regarding claims 3-4 and 7, see the rejection of claim 9.

Claims **8 and 13** are rejected under 35 U.S.C. 103(a) as being unpatentable over Reed in view of Steelman (U.S. Patent No. 6,101,256).

Regarding claims 8 and 13, Reed does not teach or restrict the microphone assembly as set forth in claim 2 wherein one of said first and said second microphones is an electret microphone and the other one of said first and second microphones is a dynamic microphone.

In a similar field of endeavor (sports communication), Steelman teaches that any suitable type of well-known transducer, which would include electret, dynamic, etc., can be used to converting sound waves and improving operating characteristics (col. 3, lines 16-29). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made

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that any type of transducer including electret, etc., can be used in the invention of Reed as taught by Steelman for improving basic characteristics and achieving the desired output and design.

Allowable Subject Matter

Claim 6 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Doss, Jr. et al. (U.S. Patent No. 6,075,857) teaches using an electret or condenser microphone in a communication system (col. 3 lines 11-12).

Lazzeroni (U.S. Patent No. 2002/0176595) teaches a helmet with an electrical post.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phylesha L. Dabney whose telephone number is 571-272-7494. The examiner can normally be reached on Mondays, Tuesdays, Wednesdays, Fridays 8:30-4 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sinh Tran can be reached on 571-272-7564. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Any response to this action should be mailed to:
Commissioner of Patents and Trademarks
P O Box 1450

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Alexandria, VA 22313-1450

Or faxed to:

(703) 273-8300, for formal communications intended for entry and for informal or draft communications, please label "Proposed" or "Draft" when submitting an informal amendment.

Hand-delivered responses should be brought to:

Customer Service Window
Randolph Building
401 Dulany Street
Alexandria, VA 22314

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

August 30, 2006


PLD


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